

110TH CONGRESS  
2D SESSION

# S. 3189

To amend Public Law 106–392 to require the Administrator of the Western Area Power Administration and the Commissioner of Reclamation to maintain sufficient revenues in the Upper Colorado River Basin Fund, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 25, 2008

Mr. BINGAMAN (for himself and Mr. DOMENICI) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To amend Public Law 106–392 to require the Administrator of the Western Area Power Administration and the Commissioner of Reclamation to maintain sufficient revenues in the Upper Colorado River Basin Fund, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Endangered Fish Re-  
5       covery Programs Improvement Act of 2008”.

1 **SEC. 2. ENDANGERED FISH RECOVERY PROGRAMS.**

2 (a) DEFINITIONS.—Section 2 of Public Law 106–392  
3 (114 Stat. 1602) is amended—

4 (1) in paragraph (5), by inserting “, rehabilita-  
5 tion, and repair” after “and replacement”; and

6 (2) in paragraph (6), by inserting “those for  
7 protection of critical habitat through stabilization of  
8 adjacent stream banks and adjacent impacted infra-  
9 structure, those for preventing entrainment of fish  
10 in water diversions,” after “instream flows,”.

11 (b) AUTHORIZATION TO FUND RECOVERY PRO-  
12 GRAMS.—Section 3 of Public Law 106–392 (114 Stat.  
13 1603; 120 Stat. 290) is amended—

14 (1) in subsection (a)—

15 (A) in paragraph (1), by striking  
16 “\$61,000,000” and inserting “\$88,000,000”;

17 (B) in paragraph (2), by striking “2010”  
18 and inserting “2023”; and

19 (C) in paragraph (3), by striking “2010”  
20 and inserting “2023”;

21 (2) in subsection (b)—

22 (A) in the matter preceding paragraph (1),  
23 by striking “\$126,000,000” and inserting  
24 “\$209,000,000”;

25 (B) in paragraph (1)—

1 (i) by striking “\$108,000,000” and  
 2 inserting “\$179,000,000”; and

3 (ii) by striking “2010” and inserting  
 4 “2023”; and

5 (C) in paragraph (2)—

6 (i) by striking “\$18,000,000” and in-  
 7 serting “\$30,000,000”; and

8 (ii) by striking “2010” and inserting  
 9 “2023”;

10 (3) in subsection (c)(4), by striking  
 11 “\$31,000,000” and inserting “\$87,000,000”; and

12 (4) in subsection (d)—

13 (A) in paragraph (2)—

14 (i) in the fourth sentence, by striking  
 15 “2011” and inserting “2023”;

16 (ii) in the fifth sentence, by striking  
 17 “2008” and inserting “2020”; and

18 (iii) in the sixth sentence, by striking  
 19 “2011” and inserting “2023”;

20 (B) by striking paragraph (3) and insert-  
 21 ing the following:

22 “(3) DUTY OF WESTERN AREA POWER ADMIN-  
 23 ISTRATION AND BUREAU OF RECLAMATION.—

24 “(A) DEFINITIONS.—In this paragraph:

1 “(i) ADMINISTRATOR.—The term ‘Ad-  
 2 ministrator’ means the Administrator of  
 3 the Western Area Power Administration.

4 “(ii) COMMISSIONER.—The term  
 5 ‘Commissioner’ means the Commissioner of  
 6 Reclamation.

7 “(iii) UPPER COLORADO RIVER BASIN  
 8 FUND.—The term ‘Upper Colorado River  
 9 Basin Fund’ means the fund established  
 10 under section 5(a) of the Act of April 11,  
 11 1956 (commonly known as the ‘Colorado  
 12 River Storage Project Act’) (43 U.S.C.  
 13 620d(a)).

14 “(B) DUTY OF ADMINISTRATOR AND COM-  
 15 MISSIONER.—The Administrator and the Com-  
 16 missioner shall maintain sufficient revenues in  
 17 the Upper Colorado River Basin Fund to meet  
 18 the obligation of the Administrator and Com-  
 19 missioner to provide base funding in accordance  
 20 with paragraph (2).

21 “(C) INSUFFICIENT FUNDS.—If the Ad-  
 22 ministrator and the Commissioner jointly deter-  
 23 mine that the amount of funds in the Upper  
 24 Colorado River Basin Fund may not be suffi-  
 25 cient to meet the obligations of section 5(c)(1)

1 of the Act of April 11, 1956 (commonly known  
2 as the ‘Colorado River Storage Project Act’)  
3 (43 U.S.C. 620d(c)(1)) and paragraph (2), base  
4 funding may be provided through loans to the  
5 Administrator from the Colorado Water Con-  
6 servation Board Construction Fund (Col. Rev.  
7 Stat. 37–60–121 (2008)) in lieu of funds that  
8 would otherwise be collected from power reve-  
9 nues and used for storage project repayments.

10 “(D) REPAYMENT.—

11 “(i) AGREEMENT.—Subject to an  
12 agreement entered into among the Colo-  
13 rado Water Conservation Board, the Ad-  
14 ministrator, and the Commissioner, the  
15 Administrator may repay any loan pro-  
16 vided under subparagraph (C) from power  
17 revenues collected after September 30,  
18 2019.

19 “(ii) NEGOTIATION OF LOANS AND  
20 FUTURE CONTRACTS.—The agreement de-  
21 scribed in clause (i), and any loan contract  
22 that may be entered into among the Colo-  
23 rado Water Conservation Board, the Ad-  
24 ministrator, and the Commissioner, shall  
25 be negotiated in consultation with Salt

1 Lake City Area Integrated Projects Firm  
2 Power Contractors.

3 “(iii) REQUIRED PROVISIONS.—The  
4 agreement described in clause (i) and each  
5 loan contract described in clause (ii) shall  
6 include provisions that are designed—

7 “(I) to minimize impacts on elec-  
8 trical power rates; and

9 “(II) to ensure that loan repay-  
10 ment to the Colorado Water Con-  
11 servation Board (including principal  
12 and interest) is treated as non-  
13 reimbursable and as having been re-  
14 paid and returned to the general fund  
15 of the Treasury as costs assigned to  
16 power for repayment under section 5  
17 of the Act of April 11, 1956 (com-  
18 monly known as the ‘Colorado River  
19 Storage Project Act’) (43 U.S.C.  
20 620d).

21 “(III) REPAYMENT DEADLINE.—  
22 The repayment of a loan provided  
23 under subparagraph (C) shall be com-  
24 pleted not later than September 30,  
25 2057.”; and

1 (C) by adding at the end the following:

2 “(4) FAILURE TO OBTAIN LOAN.—

3 “(A) REPORT.—If the Administrator of  
4 the Western Area Power Administration is un-  
5 able to obtain a loan from the Colorado Water  
6 Conservation Board under paragraph (3)(C),  
7 the Administrator and the Commissioner of  
8 Reclamation shall submit to the appropriate  
9 committees of Congress a report describing the  
10 projected base funding shortfall with respect to  
11 the Colorado River Basin Fund established  
12 under section 5(a) of the Act of April 11, 1956  
13 (commonly known as the ‘Colorado River Stor-  
14 age Project Act’) (43 U.S.C. 620d(a)).

15 “(B) AUTHORIZATION OF APPROPRIA-  
16 TIONS.—There are authorized to be appro-  
17 priated to the Secretary such sums as are nec-  
18 essary to eliminate the base funding shortfall  
19 described in subparagraph (A).”.

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